IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
First Appeal No.596 of 2007

Mr.Amitabh Laxman Swetta. .. .. Appellant
(Orig. Plff.)

v/s.

1. Municipal Corporation of Greater Bombay & anr. .. .. Respondents
(Orig. Defts.)

Mr.R.R. Sharma for Appellant.

Mr.A.J.Bhor for Res.No.1.-BMC.

Mrs.Geeta Mulekar, AGP for Res.No.2.

CORAM : SMT.ROSHAN DALVI, J.

DATED : 17th April, 2007

P.C. :

1. The Appellant challenged the notice issued to the Appellant under Section 351 of the B.M.C. Act for a weather shed outside the premises of the Appellant in Long Cause Suit No.852 of 2002 filed in the City Civil Court Bombay.

2. The Appellant was transferred the flat as per the procedure of MHADA. The Appellant separately applied for regularization of the suit weather shed after acquisition of the flat by him on 4.7.1999. It may be mentioned that implicit in an application for regularization is the admission that the structure for which the regularization application is made is irregular. Therefore, an application is made for the Municipal Authorities to regularize it.

3. No application was made for regularization to the B.M.C. Hence, no weather shed could be regularized. The learned Judge has considered the evidence with regard to the regularization of flat No.1218 and the weather shed separately and dismissed the Suit on 7.9.2006. The weather shed not being a permanent structure, in any event, could not have been regularized in perpetuity.

4. There is no error shown in the impugned order. The Appeal is dismissed under Order 41 Rule 11 of the Code of Civil Procedure.

5. In view of the dismissal of the First Appeal, Civil Application No.1144 of 2007 taken out in this First Appeal is rejected as infructuous.

(SMT. ROSHAN DALVI, J.)